

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Ramie Koji Fleming, #296755,

Plaintiff,

v.

South Carolina Department of Corrections;
Jon Ozmint, Director of SCDC; George T.
Hagan, Allendale CI Warden; Cecilia
Reynolds, Kershaw CI Warden; C. Earl
Hunter, Director of DHEC; Mark Sanford,
Governor of SC,

Defendants.

C.A. No. 1:09-CV-01256-JMC

ORDER

The *pro se* plaintiff brings this action pursuant to 42 U.S.C. § 1983. The magistrate judge assigned to this action has prepared a Report and Recommendation wherein she suggests the defendants' Motion for Summary Judgment [Entries # 30 and 43] be granted; that the plaintiff's Motions for Summary Judgment [Entry # 29] and Preliminary Injunction [Entry # 57] be denied; that the plaintiff's Motion for Mediation [Entry # 54] be denied; and that this action be dismissed in its entirety. The Report and Recommendation sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such herein without a recitation.

The magistrate judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those

portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was filed by the magistrate judge on August 3, 2010. However, the plaintiff filed no objections to the Report and Recommendation within the prescribed time limits.

In the absence of objections to the magistrate judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed.R.Civ.P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the magistrate judge's Report and Recommendation and incorporates it herein. It is therefore **ORDERED** that the defendants' Motion for Summary Judgment [Entries # 30 and 43] is granted; that the plaintiff's Motions for Summary Judgment [Entry # 29] and Preliminary

Injunction [Entry # 57] are denied; that the plaintiff's Motion for Mediation [Entry # 54] is denied, as it is now moot; and that this action is hereby dismissed with prejudice.

IT IS SO ORDERED.

s/ J. Michelle Childs
United States District Judge

Greenville, South Carolina
September 1, 2010